

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 201905402	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/22/2019 8:24 PM	Location of Incident: 30th Precinct stationhouse	Precinct: 30	18 Mo. SOL 11/22/2020	EO SOL 7/9/2021	
Date/Time CV Reported Thu, 05/23/2019 10:55 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/31/2019 11:02 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robin Taveras	01073	939835	030 PCT
2. SGT David Sansone	05163	939414	030 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Alvin Joseph	03186	965764	030 PCT
2. POF Tyler Greenfaye	23816	904071	030 PCT
3. POM Michael Duchatellier	18345	936525	030 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robin Taveras	Force: Sergeant Robin Taveras used physical force against § 87(2)(b)	
B.SGT David Sansone	Force: Lieutenant David Sansone used physical force against § 87(2)(b)	
C.SGT Robin Taveras	Discourtesy: Sergeant Robin Taveras spoke discourteously to § 87(2)(b)	
D.SGT Robin Taveras	Discourtesy: Sergeant Robin Taveras spoke discourteously to § 87(2)(b)	
E.SGT David Sansone	Discourtesy: Sergeant David Sansone spoke discourteously to § 87(2)(b)	
F.SGT Robin Taveras	Force: Sergeant Robin Taveras used physical force against § 87(2)(b)	

### Case Summary

On May 23, 2019, Lieutenant Liliana Prendegast of the 30<sup>th</sup> Precinct reported the following complaint to IAB on behalf of § 87(2)(b). It was received by the CCRB on May 31, 2019 under case number § 87(2)(b) § 87(2)(g).

On May 22, 2019, at approximately 8:24 p.m., § 87(2)(b) and § 87(2)(b) entered the 30<sup>th</sup> Precinct stationhouse to submit a complaint against officers who allegedly damaged their vehicle in a previous incident. § 87(2)(b) was asked to leave the stationhouse because he was being too loud. He refused to leave. Sgt. Robin Taveras and Sgt. David Sansone of the 30<sup>th</sup> Precinct grabbed § 87(2)(b) and forcibly took him to the ground (**Allegations A and B: Force: § 87(2)(g)**). Sgt. Taveras allegedly said, “You think you’re fucking tough?” (**Allegation C: Discourtesy: § 87(2)(g)**). Sgt. Taveras said, “Stop fucking spitting on me” (**Allegation D: Discourtesy: § 87(2)(g)**). Sgt. Sansone told § 87(2)(b) that his interaction with § 87(2)(b) had been “a pain in the ass” (**Allegation E: Discourtesy: § 87(2)(g)**). Sgt. Taveras allegedly struck § 87(2)(b) in the chest with his forearm (**Allegation F: Force: § 87(2)(g)**). § 87(2)(b) was arrested for § 87(2)(b). § 87(2)(g).

BWC footage captured this incident (BR 1-6).

### Findings and Recommendations

**Allegation (A) Force: Sergeant Robin Taveras used physical force against § 87(2)(b)**

**Allegation (B) Force: Sergeant David Sansone used physical force against § 87(2)(b)**

§ 87(2)(b) testified that he went into the 30<sup>th</sup> Precinct stationhouse with § 87(2)(b) to file a complaint about officers who damaged his vehicle during an arrest on May 21, 2019. He spoke to PO Tyler Greenfaye of the 30<sup>th</sup> Precinct and refused her order to sit down. He approached Sgt. Taveras and Sgt. Sansone, who stood on an elevated platform behind the front desk. Sgt. Sansone told § 87(2)(b) to lower his voice. § 87(2)(b) replied that he spoke in a military tone of voice because he needed a response. Sgt. Sansone walked toward § 87(2)(b) with his hand on his gun and said, “If you don’t lower your voice.” § 87(2)(b) asked if Sgt. Sansone was going to shoot him. Sgt. Sansone and Sgt. Taveras grabbed § 87(2)(b) by the arms and pulled him down to the ground. § 87(2)(b)’s head hit the ground before he landed chest-first on the ground.

It is undisputed that § 87(2)(b) refused medical attention at the 30<sup>th</sup> Precinct stationhouse. He testified that he did not seek any medical attention after the incident.

Sgt. Sansone’s BWC footage (BR 01) showed that he approached Sgt. Taveras and § 87(2)(b) as they spoke at the front desk. Sgt. Taveras appeared to place a hand on § 87(2)(b)’s shoulder. § 87(2)(b) slapped his arm away and repeatedly yelled that Sgt. Taveras should not touch him. Sgt. Taveras asked § 87(2)(b) if he was leaving. § 87(2)(b) gestured in Sgt. Taveras’ face and yelled, “I’ll leave. Don’t fucking touch me.” Sgt. Taveras and Sgt. Sansone grabbed § 87(2)(b)’s arms, but § 87(2)(b) appeared to strain his arms to prevent from being handcuffed. Sgt. Sansone asked for handcuffs and § 87(2)(b) told both Sgt. Taveras and Sgt. Sansone to get off him. Sgt. Sansone told § 87(2)(b) to stop resisting. § 87(2)(b) said that he was not resisting and told the officers to get off him. § 87(2)(b) strained his arms to get out of their grasp. Sgt. Sansone, Sgt. Taveras, and § 87(2)(b) appeared to fall to the floor.

PO Michael Duchatellier of the 30<sup>th</sup> Precinct was assigned to Sector C. He had BWC footage (BR 02) that showed Sgt. Sansone and Sgt. Taveras grab § 87(2)(b)’s arms and pull him down to the floor chest-first. It was unclear whether § 87(2)(b)’s head or chest hit the ground first. No officer touched

§ 87(2)(b)'s head as they took him to the ground. On the ground, § 87(2)(b) appeared to resist the officers' efforts to handcuff him by flexing his arms. § 87(2)(b) complained that he was hit in the head. PO Alvin Joseph of the 30<sup>th</sup> Precinct was assigned to Sector C. He placed § 87(2)(b) into handcuffs. Officers lifted § 87(2)(b) up and walked him to the cells.

Sgt. Taveras testified that § 87(2)(b) cursed and yelled in the stationhouse, and refused to sit down when he was told that he could wait for his arresting officer. Sgt. Taveras repeatedly warned him to be quieter. As § 87(2)(b) did not comply with these instructions, Sgt. Taveras told him to leave the stationhouse, which § 87(2)(b) also refused to do. Based on this response, Sgt. Taveras decided to arrest § 87(2)(b) for disorderly conduct, criminal trespassing, and resisting arrest. Sgt. Taveras and Sgt. Sansone grabbed § 87(2)(b) to place him into handcuffs. § 87(2)(b) tensed his arms and prevented them from handcuffing him. Sgt. Taveras and Sgt. Sansone laid § 87(2)(b) chest-first on the ground to place him into handcuffs. Sgt. Sansone observed a contusion to § 87(2)(b)'s head but did not know if it was there before the arrest.

Sgt. Sansone testified that he brought § 87(2)(b) to the ground by sweeping his right leg out from underneath him and bringing him to the floor. He took this action because § 87(2)(b) resisted arrest and the officers needed to place him into handcuffs.

The TRI and ISAR (BR 07) are consistent with the statements of Sgt. Taveras and Sgt. Sansone. The ISAR recommended no further action involving Sgt. Taveras or Sgt. Sansone.

Officers may use force when it is reasonable to place a person into custody or to prevent escape from custody. Any application of force must be reasonable under the circumstances. Members of service will only use the reasonable force necessary to gain control or custody of a subject. Patrol Guide Procedure 221-01 (BR 08).

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation (C) Discourtesy: Sergeant Robin Taveras spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that as he was being escorted to the cells, Sgt. Taveras said, "You think you're fucking tough?"

Sgt. Taveras denied making this statement.

Sgt. Taveras' BWC footage (BR 03) captured his interactions with § 87(2)(b) beginning when he first placed § 87(2)(b) into handcuffs, to after he searched § 87(2)(b) in the cell area. The footage did not capture Sgt. Taveras saying, "You think you're fucking tough?"

§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Discourtesy: Sergeant Robin Taveras spoke discourteously to** § 87(2)(b)

Sgt. Taveras' BWC footage (O3) showed him search § 87(2)(b) in the cell area. During that time § 87(2)(b) yelled in Sgt. Taveras' face. As § 87(2)(b) yelled, spit exited his mouth. Sgt. Taveras said, "Stop fucking spitting at me."

Sgt. Taveras did not remember using the word "fuck" at any point during this incident.

When an officer uses an otherwise impolite word during a stressful encounter where that officer is attempting to maintain control of the situation, the officer's verbal slip does not rise to the level of actionable misconduct. DCT Case #79627/04 (BR 09).

§ 87(2)(g)

**Allegation (E) Discourtesy: Sergeant David Sansone spoke discourteously to** § 87(2)(b)

§ 87(2)(b) alleged that after § 87(2)(b) was arrested, Sgt. Sansone told her that § 87(2)(b) was an "asshole."

§ 87(2)(b) secretly recorded her conversation with Sgt. Sansone (BR 10). The video showed that § 87(2)(b) requested to speak to a supervisor as § 87(2)(b) yelled in the background. Sgt. Sansone, breathing heavily, asked what § 87(2)(b) wanted. § 87(2)(b) replied that she wanted to fill out a form for damage to her vehicle. Sgt. Sansone replied, "Not tonight," and explained that the officers were dealing with § 87(2)(b)'s arrest. § 87(2)(b) repeated that her property was damaged. Sgt. Sansone said, "That was just a pain in the ass. I have officers that are probably hurt."

Sgt. Sansone acknowledged saying, "Pain in the ass" in the video. He testified he was out of breath, and uttered this statement to convey to § 87(2)(b) what had just transpired. He wanted § 87(2)(b) to be more understanding regarding her request to fill out a form for her vehicle damage.

When an officer uses an otherwise impolite word during a stressful encounter where that officer is attempting to maintain control of the situation, the officer's verbal slip does not rise to the level of actionable misconduct. DCT Case #79627/04 (BR 09).

§ 87(2)(g)

**Allegation (F) Force: Sergeant Robin Taveras used physical force against** § 87(2)(b)

§ 87(2)(b) alleged that in the cell, Sgt. Taveras used his forearm to strike § 87(2)(b) in the chest four times, causing his head to hit the cell wall.

Sgt. Taveras denied striking § 87(2)(b) in the chest in the cell area.

Sgt. Taveras' BWC footage (BR 03) depicted his interactions with § 87(2)(b) in the cell area. § 87(2)(b) yelled profanities at the officers and repeatedly moved to prevent from being searched. At one point, § 87(2)(b) tried to stand up from the cell bench while he was being searched. Sgt. Taveras held § 87(2)(b)'s shoulder and chest to keep him seated. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

### **Allegations Not Pleaded**

- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to two CCRB complaints and has been named as a victim in four allegations (BR 11).
  - § 87(2)(b)
- § 87(2)(b) has been party to one CCRB complaint, in which she was a witness (BR 12).
- Sgt. Taveras has been a member-of-service for 14 years and has been a subject of ten CCRB allegations in five prior complaints, of which one was substantiated.
  - Case #201807073 involved a substantiated allegation of an improperly summons against Sgt. Taveras. The Board recommended Formalized Training and the NYPD has not yet imposed discipline.
  - § 87(2)(g)
- Sgt. Sansone has been a member-of-service for 14 years and has been a subject of four CCRB allegations in three prior complaints, none of which were substantiated. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This case was not eligible for mediation because § 87(2)(b) was injured.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- A request to the NYC Office of the Comptroller for Notice of Claim records is pending and will be added to the case file upon receipt.

Squad 6

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date